

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**KENNETH QMOCTHANH HALL**  
**a.k.a. KENNETH HALL**  
**1201 Cimarron Dr.**  
**Olivette City, MO 63132**

**Registered Nurse License No. 490567**

Respondent

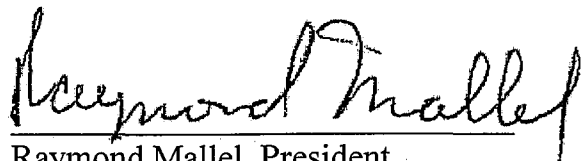
Case No. 2013-343

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 6, 2013.**

IT IS SO ORDERED **March 6, 2013.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN  
Deputy Attorney General  
4 State Bar No. 193338  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-343

12 **KENNETH QMOCTHANH HALL**  
13 **a.k.a. KENNETH HALL**  
14 **1201 Cimarron Dr.**  
**Olivette City, MO 63132**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 **Registered Nurse License No. 490567**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
22 Registered Nursing. She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Geoffrey S.  
24 Allen, Deputy Attorney General.

25 2. Kenneth Qmochthanh Hall a.k.a. Kenneth Hall (Respondent) is representing himself in  
26 this proceeding and has chosen not to exercise his right to be represented by counsel.  
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3. On or about May 31, 1993, the Board of Registered Nursing issued Registered Nurse License No. 490567 (License) to Respondent. The License expired on January 31, 2011, and has not been renewed.

## JURISDICTION

4. Accusation No. 2013-343 (Accusation) was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 29, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of the Accusation is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in the Accusation. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Accusation, agrees that cause exists for discipline and hereby surrenders his License for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his License without further process.

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1       2.     Respondent shall lose all rights and privileges as a Registered Nurse in California as  
2 of the effective date of the Board's Decision and Order.

3       3.     Respondent shall cause to be delivered to the Board his pocket license and, if one was  
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5       4.     If Respondent ever files an application for licensure or a petition for reinstatement in  
6 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
7 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
8 effect at the time the petition is filed, and all of the charges and allegations contained in the  
9 Accusation shall be deemed to be true, correct and admitted by Respondent when the Board  
10 determines whether to grant or deny the petition.

11       5.     If and when Respondent's License is reinstated, he shall pay to the Board costs  
12 associated with its investigation and enforcement pursuant to Business and Professions Code  
13 section 125.3 in the amount of \$1,180.00. Respondent shall be permitted to pay these costs in a  
14 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the  
15 Board from reducing the amount of cost recovery upon reinstatement of the license.

16       6.     If Respondent should ever apply or reapply for a new license or certification, or  
17 petition for reinstatement of a license, by any other health care licensing agency in the State of  
18 California, all of the charges and allegations contained in the Accusation shall be deemed to be  
19 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other  
20 proceeding seeking to deny or restrict licensure.

21       7.     Respondent shall not apply for licensure or petition for reinstatement for two (2)  
22 years from the effective date of the Board's Decision and Order.

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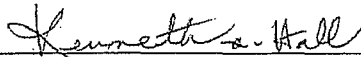
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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the  
3 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated  
4 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound  
5 by the Decision and Order of the Board of Registered Nursing.

6  
7 DATED:

19 Nov. 2012

  
KENNETH QMOCTHANH HALL  
Respondent

9  
10 ENDORSEMENT


11 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
12 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

13 Dated:

12/6/12

Respectfully submitted,

14 KAMALA D. HARRIS  
15 Attorney General of California  
16 JANICE K. LACHMAN  
17 Supervising Deputy Attorney General

  
18 GEOFFREY S. ALLEN  
19 Deputy Attorney General  
20 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 2013-343**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN  
Deputy Attorney General  
4 State Bar No. 193338  
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6 Telephone: (916) 324-5341  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013- 343

13 **KENNETH QMOCTHANH HALL, aka**  
14 **KENNETH HALL**  
1201 Cimarron Drive  
Olivette City, Missouri 63132

**A C C U S A T I O N**

15 **Registered Nurse License No. 490567**

16 Respondent.

17  
18 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive  
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about May 31, 1993, the Board issued Registered Nurse License Number  
24 490567 to Kenneth Qmochthanh Hall, also known as Kenneth Hall ("Respondent"). The  
25 registered nurse license expired on January 31, 2011, and has not been renewed.

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## JURISDICTION

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

## STATUTORY PROVISIONS

6. Code section 2761 provides, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for the following:

(a) Unprofessional conduct.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

## COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline)**

3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),  
4 on the grounds of unprofessional conduct, in that Respondent was disciplined by the Missouri  
5 State Board of Nursing. Effective March 28, 2012, in a disciplinary action entitled *State Board of*  
6 *Nursing v. Kenneth Hall*, Case Number 2007-006102, AHC 10-2281 BN, the Missouri State  
7 Board of Nursing revoked Respondent's nursing license pursuant to its *Findings of Fact*,  
8 *Conclusions of Law, and Disciplinary Order*, attached hereto as Exhibit A and incorporated  
9 herein by reference. The basis of said discipline is that Respondent refused to perform an  
10 assignment, made a threatening gesture toward his supervisor, and had an uncontrolled episode of  
11 crying and screaming while on duty as a nurse.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 490567, issued to  
16 Kenneth Qmochanh Hall, also known as Kenneth Hall;

17 2. Ordering Kenneth Qmochanh Hall, also known as Kenneth Hall, to pay the Board of  
18 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
19 pursuant to Code section 125.3; and,

20 3. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: October 29, 2012

23 *for* Louise R. Bailey  
24 LOUISE R. BAILEY, M.ED., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
27 State of California  
28 Complainant

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**EXHIBIT A**

*Findings of Fact, Conclusions of Law, and Disciplinary Order,  
Missouri State Board of Nursing*

BEFORE THE STATE BOARD OF NURSING  
STATE OF MISSOURI

STATE BOARD OF NURSING,	)		
	)		
Petitioner,	)		
vs.	)	Case Number	2007-006102
	)	AHC 10-2281 BN	
KENNETH HALL,	)		
	)		
Respondent.	)		

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DISCIPLINARY ORDER**

This Board filed a complaint with the Administrative Hearing Commission seeking authority to discipline the nursing license of Kenneth Hall. The Administrative Hearing Commission entered a Decision in this matter on December 8, 2011, finding cause for this Board to discipline the nursing license of Kenneth Hall.

The Board convened a hearing on March 8, 2012, at its regular meeting in Jefferson City to determine what discipline, if any, should be imposed on Respondent's nursing license.

Respondent, though duly notified of the time and place of the hearing, failed to appear in person or by counsel and is in default. The Board was represented by Cotton Walker. Angela Marmion acted as legal advisor to the Board. Mr. Walker requested a default judgment be issued against Respondent pursuant to §324.045 RSMo Cum. Supp. 2011. Evidence was adduced, exhibits were received and the matter was taken under advisement. The Board now enters its findings of fact, conclusions of law and disciplinary order in this matter:

### FINDINGS OF FACT

1. After a hearing held pursuant to the provisions of chapter 621 RSMo, before the Administrative Hearing Commission (AHC) based upon a properly filed complaint by the Missouri State Board of Nursing (Board) against the license of Respondent, the AHC issued its Decision on December 8, 2011, finding that the Board had cause to discipline his license pursuant to §§335.066.2(5) RSMo Cum. Supp. 2010 due to Respondent refusing to perform an assignment, making a threatening gesture toward his supervisor and having an uncontrolled episode of crying and screaming while on duty as a nurse. A copy of the Decision of the AHC is attached and incorporated by reference as if fully set out herein.
2. Respondent was provided with a copy of the Decision from the AHC and notice that a disciplinary hearing was scheduled before the Board on March 8, 2012, at 9:00 a.m. at 3550 Amazonas Drive, Jefferson City, Missouri, in the Education Center of the Missouri Counsel of School Administrators' building to determine the appropriate level of discipline, if any, to be imposed against his license.
3. Notice of the hearing and Decision of the AHC was sent via UPS Ground Service, Adult Signature Required, on January 9, 2012, to Kenneth Hall, 1201 Cimarron Drive, Olivette, MO 63132-2105.
4. On January 10, 2012, at 12:58 p.m., the notice of hearing was signed for as received by someone whose last name appears to be "Hall."

5. A proceeding was initiated before the Board upon a properly pled writing for the purpose of determining the appropriate level of discipline to be administered to Respondent's license.
6. Respondent had proper notice of the proceeding.
7. Respondent failed to plead or otherwise defend against the proceeding
8. Respondent is in default.
9. The Board takes notice of the following facts:
  - a. The State Board of Nursing (Board) is an agency of the State of Missouri created and established pursuant to § 335.021 RSMo with the function of executing and enforcing the provisions of Chapter 335 RSMo, the Nursing Practice Act, for the purpose of safeguarding the public health.
  - b. Kenneth Hall holds a license from this Board as a registered professional nurse, RN 112284. Respondent's license was current and active at all times relevant herein.
  - c. Respondent was employed as a registered professional nurse at CenterPointe Hospital in Saint Charles, Missouri 6330, from October 22, 2007 through December 17, 2007.
  - d. On December 17, 2007, Respondent was working on the Adult Unit and was under the supervision of H.B., RN.
  - e. One of Respondent's duties as an RN was to process patient admissions.
  - f. On December 17, 2007, H.B. requested that Respondent conduct a patient admission on a patient that was being admitted to their unit. H.B. wanted

Respondent to prepare the paperwork for admitting the patient to gain more experience since he was having some problems with the paperwork.

g. Respondent became agitated with H.B. and told her he was not doing any admissions, although he said he was willing to do his other routine night duties.

h. H.B. contacted S.B., Director of Nursing, to explain the situation. Respondent discussed the matter with S.B. as well. It was decided that Respondent would not have to do the first admission but that Respondent would need to do complete the next one.

i. Shortly thereafter, another new patient needed to be admitted. H.B. told Respondent he would have to do this patient admission and Respondent refused.

j. H.B. informed Respondent that admissions were a part of his job and he would have to clock out if he refused to do the admission. Respondent jumped from his chair and lunged forward with a pen in his hand in a threatening manner.

k. Respondent then threw himself back into the chair and started screaming and crying. H.B. and another nurse were able to roll Respondent in his chair into the consult room behind the nurse's station.

l. Security guards and the St. Charles Sheriff's Department were called and came to help control the matter.

m. Respondent resigned as a nurse with CenterPointe Hospital. However, he was terminated from employment the next day.

10. The Board has considered the evidence presented at the hearing and the Decision of the Administrative Hearing Commission and determines that discipline is appropriate to be imposed against Respondent's nursing license.

11. The Board finds that this Disciplinary Order is issued to safeguard the public health.

#### CONCLUSIONS OF LAW

12. The Board has jurisdiction to discipline Respondent's license pursuant to the provisions of §335.066.2(5) RSMo, as amended, which provides:

2. The Board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 335.011 to 335.096;

13. The Board has jurisdiction to discipline Respondent's license pursuant to §335.066.3 RSMo Cum. Supp. 2010, which provides:

After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.



14. Section 324.045.1 RSMo Cum. Supp. 2011 provides:

Notwithstanding any provision of chapter 536, in any proceeding initiated by the division of professional registration or any board, committee, commission, or office within the division of professional registration to determine that appropriate level of discipline or additional discipline, if any, against a licensee of the board, committee, commission, or office within the division, if the licensee against whom the proceeding has been initiated upon a properly pled writing filed to initiate the contested case and upon proper notice fails to plead or otherwise defend against the proceeding, the board, commission, committee, or office within the division shall enter a default decision against the licensee without further proceedings. The terms of the default decision shall not exceed the terms of discipline authorized by law for the division, board, commission, or committee. The division, office, board, commission, or committee shall provide the licensee notice of the default decision in writing.

15. "[G]rounds for discipline specified in such a professional-licensing statute should be liberally construed to protect the public." Professional licensing statutes are not penal in nature and the "powers conferred upon boards of health to enable them effectively to perform their important functions in safeguarding the public health should receive a liberal construction." *Koetting v. Bd. of Nursing*, 314 S.W.3d 812, 819 (Mo. App. 2010).

#### ANALYSIS

The Administrative Hearing Commission found that Respondent's license was subject to discipline for refusing to perform an assignment, making a threatening gesture toward his supervisor and having an uncontrolled episode of crying and screaming while on duty as a nurse. Respondent is in default and offered no mitigating evidence to the Board regarding the findings of the AHC or as to the appropriate level of discipline the Board should impose. The Board is charged with executing and enforcing the Nursing Practice Act for the purpose of safeguarding the health of the public. The

Board therefore finds and concludes that the appropriate level of discipline for the license of Kenneth Hall is revocation in order to safeguard the health of the public.

**DISCIPLINARY ORDER**

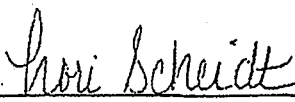
16. The Board has found that Kenneth Hall has failed to plead or otherwise defend against the action initiated upon a properly pled writing and upon proper notice by the Board that a disciplinary hearing was scheduled against him on March 8, 2012 at 9:00 a.m. to determine the appropriate level of discipline, if any, to be assessed against the license of Kenneth Hall for his violations of the nursing practice act.

17. The Missouri State Board of Nursing enters its Order and **REVOKES** the nursing license of Respondent, Kenneth Hall, RN 112284. Respondent shall return all evidence of licensure to the Board immediately.

18. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 335, 610 and 620, RSMo. The Board will report this Order to data banks, other appropriate entities and in its newsletter. This is a disciplinary action against Respondent's license. The original of this document shall be kept in the Board's file and its contents shall be disclosed to the public upon proper request.

ENTERED THIS 28<sup>th</sup> DAY OF MARCH 2012.

STATE BOARD OF NURSING

  
\_\_\_\_\_  
Lori Scheidt  
Executive Director